MT LEGISLATIVE HISTORY

Chapter 616 .1983

Bill H 376 S _____ Original bill & hist. ✓C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Jan 26	✓C	Hearing Date(s) Mar 04	✓C
Jan 29	✓C	Mar 09	✓C
Feb 03	✓C	Mar 16	✓C
_____	C	Mar 19	✓C
Date Out Feb 03	✓C	Mar 19	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 376

INTRODUCED BY MCBRIDE, WALDRON

IN THE HOUSE

January 19, 1983	Introduced and referred to Committee on Judiciary.
February 3, 1983	Committee recommend bill do pass as amended. Report adopted.
February 4, 1983	Bill printed and placed on members' desks.
February 7, 1983	Second reading, do pass as amended.
February 8, 1983	Correctly engrossed.
February 10, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 11, 1983	Introduced and referred to Committee on Judiciary.
March 21, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1983	Second reading, concurred in.
March 25, 1983	Third reading, concurred in. Ayes, 45; Noes, 4.

IN THE HOUSE

March 25, 1983	Returned to House with amendments.
March 31, 1983	Second reading, amendments not concurred in.

March 31, 1983	On motion, Conference Committee requested and appointed.
April 8, 1983	Conference Committee dissolved.
	On motion, Free Conference Committee requested and appointed.
April 12, 1983	Free Conference Committee reported.
April 13, 1983	Second reading, Free Conference Committee report adopted.
April 14, 1983	Third reading, Free Conference Committee report adopted.
April 18, 1983	Free Conference Committee report adopted by Senate.
	Sent to enrolling.
	Reported correctly enrolled.

House BILL NO. 376

INTRODUCED BY McCracken Waldron

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW ON GRANDPARENT VISITATION RIGHTS; AMENDING SECTION 40-9-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-9-102, MCA, is amended to read:

"40-9-102. Grandparent visitation rights. (1) ~~If the father or mother of an unmarried child is deceased, the district court may grant to the parents of the deceased person reasonable visitation rights with the child~~ A grandparent may petition the court for reasonable rights of visitation with an unmarried minor grandchild.

(2) Visitation rights granted under this section may be granted only upon a finding by the court, after a hearing, that: ~~the visitation would be in the best interest of the child~~:

(a) such visitation would not interfere significantly with any parent-child relationship or with a parent's rightful authority over the child; and

(b) such visitation would be in the best interests of the child. In making the determination concerning the child's best interests, the court shall consider all relevant factors, including but not limited to the following:

(i) the child's expressed wishes; and

(ii) the extent of personal contact between the child and the petitioner prior to the proceeding for visitation rights.

(3) ~~This section does not apply if the child has been adopted by a person other than a stepparent or a grandparent. Visitation rights granted under this section terminate upon the adoption of the child by a person other than a stepparent or a grandparent~~ Unless compelling circumstances exist, the visitation granted under this section may not exceed 48 hours a month divided among a maximum of 3 calendar days.

(4) The court may modify an order granting or denying visitation rights whenever such modification is consistent with subsections (2) and (3). However, no person may petition the court under this section more often than once every 2 years unless there has been a significant change in the circumstances of the child, the child's parent, guardian, or custodian, or the child's grandparent.

(5) The court may award costs, including reasonable attorney fees, to the prevailing party.

(6) The court may appoint an attorney to represent the interests of a child with respect to visitation when such

LC 0558/01

INTRODUCED BILL
HB 376

interests are not adequately represented by the parties to the proceeding. The court shall enter an order for costs and fees in favor of the child's attorney. The order must be made against any or all of the parties to the proceeding, except that if any responsible party is indigent, the costs and fees must be waived."

-End-

STATUS SHEET

JUDICIARY COMMITTEE

48 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
369	Requiring a judge to state his reasons for imposing a sentence.	1/19/83	Rep. Sands	1/27/83	Do Pass as Amended	1/27/83
370	To define a correctional policy for the State of Montana.	1/19/83	Rep. Sands	1/31/83	Do Pass as Amended	1/31/83
376	Revising the law on grandparent visitation rights.	1/19/83	Rep. McBride	1/26/83	Do Pass as Amended	2/3/83
379	Requiring Attorney General to prepare instructions on how to probate a will or settle an estate and to distribute such to public.	1/19/83	Rep, Brand	1/28/83	Do Not Pass	2/7/83
381	To adopt the exclusionary rule exception of reasonable good faith belief in the legality of search and seizure.	1/19/83	Rep. Hannah	2/8/83	Table	2/21/83
382	To repeal the exclusionary rule; providing civil remedy for viol. of a person's constitutional privacy rights or search and seizure rights.	1/19/83	Rep. Hannah	2/8/83	Table 2/16/83	

Form CS-32
1-81

JAN PHILLIPS, Hellgate Elementary, was in favor of the bill as it is important to education.

RICK BARTOS, Office of Public Instruction, was in support of the bill. He concurred with previous observations. EXHIBIT D.

DARLENE MEDDOCK, School Trustee, stated people who file for school board trustee appointments care about kids. It is a large task to ask a person. Because of the liability they may incur, some people do not want to run for fear of losing property.

CLAUDIA STEEN, Trustee, was in favor of the bill.

There were no further proponents.

There were no opponents.

In closing, REP. YARDLEY stated liability insurance covering punitive damages is extremely high.

REP. J. BROWN asked if there have been cases brought against school board members. It was replied not as of yet. This bill would prevent that although there is a possibility one could be brought now.

REP. SPAETH stated he thought whenever a trustee was acting in his official capacity he could not be sued for malice or fraud. REP. YARDLEY stated the statutes gives immunity to the school board itself. As a board they are exempt but as individuals they are not.

REP. SPAETH felt the bill would not give much more protection. A witness replied it could possibly discourage lawsuits.

REP. YARDLEY stated school boards in general have liability insurance. School board members, however, are not considered employees.

HOUSE BILL 376

REP. MCBRIDE, sponsor, stated House Bill 376 would generally revise the law on grandparent visitation rights. The current statute was passed in 1979. The current statute provides that a petition for visitation rights may be filed by grandparents only upon changes in the family. The statute further provides that grandparents rights to petition for visitation terminate if the child is placed for adoption. The statute recognizes the rights of the parents of a noncustodial parent

in divorce proceedings and of the rights of a parent of a deceased person as parties who may petition the court to visitation rights. The purpose of this bill is to minimize the intervention. There are many relationships the child might have with other parties but this bill is limited to the grandparents. It is further limited by the amendment as in EXHIBIT E.

Under the proposed amendment the grandparent would still have the right to petition the court for visitation rights. Those rights however, would be terminated if the child was adopted by a person other than a stepparent or a grandparent.

The problem first came to REP. MCBRIDE's attention when several grandparents confronted her with the issue. She felt that the determination of whether grandparents should be allowed to visit a child was based on the best interests of the child. The highest criteria, therefore that the courts would decide, is whether the visitation is within the best interests of the child. Other competing factors would include parental authority and privacy in the home.

JUDITH H. CARLSON, Social Rehabilitation Services, was in favor of the bill as amended.

BETTY BAY, Adoption Specialist of the Department of Social Rehabilitation Services, was also in favor of the bill as amended.

There were no further proponents.

There were no opponents.

In closing, REP. MCBRIDE stated there are only nine states that do not provide for some type grandparent visitation rights. It is important to realize that since the courts have first looked at this issue there have been many changes in our society. Previously we as a society have just looked at what the parents want and have not considered the child's needs and views.

REP. MCBRIDE stated there are many out-of-wedlock births which also create a problem as far as visitation rights are concerned. The unwed mother might raise her child in the grandparents home. A grandparent-grandchild relationship has then been established. If the unwed mother decides to leave the home and take the child, the grandparent should be able to petition the court for visitation rights.

REP. KEYSER asked about page 2, line 24 of the bill in which the court may appoint an attorney to represent the child's interest. REP. MCBRIDE stated that the court would appoint an attorney for the child if the grandparents and parent and their attorneys could not adequately represent the child. The court would award the cost to the prevailing party. The cost of the child's attorney would be included as part of this cost. The child is never the prevailing party.

REP. EUDAILY asked if the amendment should be left as subsection 3 since both dealt with visitation rights. REP. MCBRIDE that would be appropriate. If the amendment were placed at the end of the bill, the subsection should be changed from 6 to 7.

REP. BERGENE asked why the visitation rights would be terminated upon the child's adoption. REP. MCBRIDE responded in many cases allowing the grandparents to visit would undermine the relationship between the child and the parents who adopted him. It may cause problems and not be in the child's best interests.

BAY stated when the parent-child relationship is terminated by the court and the child is adopted, the parental rights are legally with the new set of parents. Sometimes the relationship of the grandparent and the child continues, but it can be confusing in the child's mind.

REP. BERGENE asked if this was being too strict to actually terminate the relationship. BAY replied the grandparents do not have any rights in the first place.

The hearing on the bill closed.

HOUSE BILL 265

REP. MCBRIDE, sponsor, stated House Bill 265 would eliminate certain qualifications for condemnation commissioners in eminent domain proceedings and provide for compensation. REP. MCBRIDE read testimony from EXHIBIT F.

JIM BECK, Department of Highways, was in support of the bill. Under current statute it is not clear who pays the amounts that the commissioners receive. They currently receive $25 a day for each day they serve. This process could take up to ten days before they make a decision. He stated he recently was at a meeting in which each member was paid $1,000 for total service of a 10:00 a.m. to 3:00 p.m. meeting. The Department complained but the judge stated that union wages would be paid.

Exhibit E
HB 376
1/26/83

AMEND HOUSE BILL 376

1. Page 3.
Following: line 6
Insert: "(6) This section does not apply if the child has been adopted by a person other than a stepparent or a grandparent. Visitation rights granted under this section terminate upon the adoption of the child by a person other than a stepparent or a grandparent."

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 376 DATE 1/26/83

SPONSOR Rep. McBride

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
JUDITH H CARLSON	HELENA	SRS	WITH AMDMT	
Betty Bay	Helena	"	WITH AMDMT	
Gary Feaver	Helena	LDS Social Services	with amdmts	
Jim Flanagan	Helena	Catholic Social Services	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83

The motion of DO PASS AS AMENDED carried. REPRESENTATIVE J. BROWN and REPRESENTATIVE EUDAILY voted yes via proxies. REPRESENTATIVE CURTISS and REPRESENTATIVE IVERSON DID NOT LEAVE votes.

HOUSE BILL 376

REPRESENTATIVE DAILY moved DO PASS, seconded by REPRESENTATIVE DARKO.

REPRESENTATIVE ADDY moved the bill be amended as was presented in testimony.

BRENDA DESMOND stated there is a problem with children that are adopted and the natural grandparents still want connections with the child. The court must decide if allowing the grandparents visitation rights is in the best interests of the child. REPRESENTATIVE HANNAH felt that the grandparents love the child and they should not be hindered by what their children do.

The committee decided to hold action on the bill.

HOUSE BILL 234

REPRESENTATIVE FARRIS moved to DO PASS, seconded by REPRESENTATIVE BERGENE.

REPRESENTATIVE SPAETH felt the bill did not do much except make the school board members feel a bit better.

All were in favor of the motion except REPRESENTATIVES JENSEN and ADDY. REPRESENTATIVES DAILY, IVERSON, CURTISS and J. BROWN voted yes via proxies.

The meeting adjourned at 11:45 a.m.

Dave Brown
DAVE BROWN, Chairman

Maureen Richardson
Maureen Richardson, Secretary

applies to this bill as did the previous bill. Shooting firearms within city limits is dangerous in that is can harm innocent people as well as damage property.

REPRESENTATIVE SEIFERT stated that air rifles are often more powerful than small rifles. REPRESENTATIVE JENSEN felt that was a good point. Perhaps the definition of firearms should be redefined in this bill. CHAIRMAN BROWN stated there is a bill in Fish and Game and will change the firearms definition to include BB and pellet guns.

REPRESENTATIVE EUDAILY questioned if the bill would include peace officers firing weapons. BRENDA DESMOND stated that Section 45, Chapter 3, Part 1 identifies when force is justified.

The motion of DO PASS carried with CHAIRMAN BROWN voting against it.

HOUSE BILL 376

REPRESENTATIVE J. BROWN moved DO PASS, seconded by REPRESENTATIVE DARKO.

REPRESENTATIVE KEYSER moved to change subsection 5 to subsection 4 (1), as he felt the subsection pertains to the previous subsection. REPRESENTATIVE DAILY seconded the motion. All were in favor of the amendment.

REPRESENTATIVE ADDY moved the committee adopt REPRESENTATIVE McBRIDE's amendment (EXHIBIT B).

REPRESENTATIVE FARRIS stated she belongs to an adoptive parent group. There has been a trend in the last five years attempting to keep natural parents in touch with the child that is adopted to another family. It is very important for possible medical reasons, among others, that the lines of communication not be cut off completely. The bill eliminates section (3) of the present statute, yet the amendment puts that same language back into the bill. People involved with adoption feel there is a trend even though officials from SRS did not think so. REPRESENTATIVE FARRIS was against the amendment.

REPRESENTATIVE ADDY felt the question is whether the courts or the adoptive parents will be able to decide if visitation rights can be granted to a stepparent or a grandparent. He felt that if a family adopts a child it should be up to them whether or not the natural grandparent can have visitation rights. The amendment provides no visitation rights for grandparents if the child has been adopted other than by a grandparent or stepparent. In the situation where the unwed mother, who has no prospect of marriage, places the child up for adoption, it might be detrimental for the infant to know and be acquainted with his natural grandparents.

STANDING COMMITTEE REPORT

February 3, 19 83

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 376

First reading copy (White color)

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW ON GRANDPARENT VISITATION RIGHTS; AMENDING SECTION 40-9-102, MCA."

Respectfully report as follows: That HOUSE Bill No. 376

BE AMENDED AS FOLLOWS:

1. Page 2, following line 21.
Strike: Subsection 5 in its entirety
Renumber subsequent subsections

AND AS AMENDED

DO PASS

DAVE BROWN, Chairman.

COMMITTEE SECRETARY

STATE PUB. CO.
Helena, Mont.

REPRESENTATIVE FARRIS stated there are some people who are adopted, especially infants, that never know they are adopted. They might require medical attention that links back to their ancestors. They have the right to know who their biological parents are.

REPRESENTATIVE HANNAH asked if these records are available to the court. REPRESENTATIVE FARRIS stated it was her understanding that when something is terminated, it is stopped. Some parents, however, do write letters to SRS for insertion into their file on the child's birthday explaining why the child was put up for adoption, and other facts the natural parent thinks the child might want to know.

REPRESENTATIVE HANNAH felt that when a child is adopted the adoption agency has a thorough record of the parents' medical information. This information would "follow" the child.

REPRESENTATIVE KEYSER stated under present law, a grandparent may petition the court for visitation rights. This amendment does not allow such a petition for a hearing.

REPRESENTATIVE BERGENE asked if there are times when the courts or adoption agencies know when a situation is destructive towards the child's well-being. REPRESENTATIVE FARRIS stated she could understand that custody of the child would not be awarded to people in certain circumstances. However, the bill indicates visitation rights may not exceed 48 hours a month, so it might be in a child's best interests for his grandparents to have visitation rights with him even though it wouldn't be in the child's best interest for the same grandparents to have custody of him.

REPRESENTATIVE ADDY stated if the law is changed, natural grandparents might start coming to the adoptive parents to demand visitation rights. The question is who makes the decision, the court or the adoptive parents. The amendment takes the decision out of the court and places it in the hands of the adoptive parents.

REPRESENTATIVE DAILY agreed with REPRESENTATIVE ADDY. There are different kinds of adoption. If the amendment is passed many grandparents might feel guilty for not visiting the child before. If the child is 5 or 6 years old, it could very well make a difference in the rest of his life. It should be up to the adoptive parents.

CHAIRMAN BROWN stated the court would probably listen to all sides of the matter before deciding the rights.

REPRESENTATIVE CURTISS felt is was presumptuous for the committee to decide this. Some people have a dependency on their roots.

REPRESENTATIVE ADDY stated that allowing grandparents to intrude would make it more difficult for those who adopt. REPRESENTATIVE FARRIS stated the laws should not be written by 10% of the people but by 51%.

The motion to adopt EXHIBIT B as an amendment resulted in a roll call vote. Those voting in favor of the amendment were: ADDY, DAILY, DARKO, IVERSON, SEIFERT, SPAETH and VELEBER. Those voting against the amendment were: D. BROWN, J. BROWN, CURTISS, EUDAILY, FARRIS, HANNAH, KENNERLY, KEYSER, and SCHYE. The amendment failed 10 to 7.

REPRESENTATIVE FARRIS stated the problem the bill tries to address became apparent when grandparents had differing religious or moral views than the parents of the child had.

BRENDA DESMOND stated the bill is a result of the fact that families are not as close as they once were. The close family unit is diminishing. Grandparents are not allowed access to the grandchildren as much as before. Many states do not grant the right for grandparents to petition the court to see the children.

REPRESENTATIVE JENSEN said that some grandparents are meddlers and are only interested in their own needs and not the child's. CHAIRMAN BROWN stated "that meddlers are meddlers to everyone who looks at them." The whole purpose of the bill is to allow the court to decide whether it is within the child's best interest to let the relationship between the child and the grandparent develop.

REPRESENTATIVE CURTISS stated that REPRESENTATIVE JENSEN's comments hold true with some parents also.

The motion of DO PASS AS AMENDED, made by REPRESENTATIVE J. BROWN, carried with REPRESENTATIVE JENSEN, REPRESENTATIVE ADDY and REPRESENTATIVE SPAETH voting no.

HOUSE BILL 184

REPRESENTATIVE DAILY moved DO PASS, seconded by REPRESENTATIVE KEYSER.

REPRESENTATIVE DAILY moved the committee adopt the amendments as in EXHIBIT C.

BRENDA DESMOND, Committee Staff Attorney, stated she drafted the exhibit as to the concerns committee members expressed to her. She briefly went through the exhibit explaining it to the committee members.

REPRESENTATIVE JENSEN stated the exhibit should be amended on page one, section (1) to "A district court judge shall within 45 days act upon receipt of a petition for a permit or renewal of a permit

48th LEGISLATIVE SESSION

COMMITTEE ON Senate Judiciary

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
251	1-25-83	2-7-83	2-7-83					2-7-83	
257	1-31-83	3-19-83	3-19-83				3-19-83		
265	2-2-83	3-4-83	3-4-83				3-4-83		
272	2-2-83	3-10-83	3-10-83				3-10-83		
307	2-7-83	2-9-83	2-10-83					2-10-83	
320	2-14-83	3-2-83	TABLED						
323	2-2-83	2-11-83	2-17-83						2-17-83
327	2-7-83	2-9-83	2-17-83						2-17-83
331	2-2-83	3-2-83	3-19-83					3-19-83	
350	2-7-83	2-9-83	2-9-83				2-9-83		
355	2-10-83	3-1-83	3-1-83				3-1-83		
357	3-3-83	3-17-83	3-24-83					3-24-83	
362	2-8-83	3-1-83	3-24-83					3-24-83	
369	2-3-83	2-10-83	2-10-83				2-10-83		
370	2-7-83	3-1-83	3-19-83					3-19-83	
376	2-11-83	3-4-83	3-19-83					3-19-83	

(Use Separate Sheet for Senate, House Bills, and Resolutions)

There being no further proponents, and no opponents, the hearing was closed.

CONSIDERATION OF HOUSE BILL 376: Representative Kathleen McBride, District #85, said that talking to several of her constituents gave rise to the introduction of this bill. Under current law the grandparents may petition for visitation rights in the case of a deceased parent or in a divorce, but in any other circumstances they have no right. This bill recognizes that there are other significant relationships where the grandparents should be allowed visitation rights. One would be where there is an unwed mother living with her parents; the grandparents may help raise the child and later they are not allowed visitation rights. The other would be the parents are still living together but there may have been a falling out between the parents and grandparents and they are not allowed visitation rights. This bill would allow, in those circumstances, the grandparents to petition for visitation rights. Visitation is to be allowed in the best interests of the child. That has not always been the case. She said there were other limiting factors on page 2 of the bill and explained them briefly.

She also explained the circumstances behind the amendment on page 2, line 15. The major reason is to prevent harrassment. As to the language on page 2, lines 7-11 and page 3, lines 7-11, she said this is not new language and did not feel this was the time to go into visitation rights concerning adoption.

There being no proponents or opponents present, the hearing was open to questions from the Committee.

Senator Berg asked if they hadn't passed a Senate bill concerning this. Representative McBride said she had talked to Senator Hager, sponsor of SB381. He went ahead and submitted his bill and he is more than willing to carry this bill (HB376) in the Senate. There is no conflict with the bills. HB376 gives some guidance to the court that his bill does not.

Senator Mazurek asked if this language comes from some other state statutes. Representative McBride believed that it does but would have to go back and look this up. She was not sure what states or statutes. Senator Mazurek also wanted to know if they have been implemented and if they are working. Representative McBride did not know. She did not recall specifically which states.

Senator Crippen felt that on page 2, line 7, (3) this is an area where they would want to protect grandparents' rights. Representative McBride said this was discussed at length in the House. Because of the adoption laws right now they felt they must proceed very carefully. If the natural parents are denied that right they did not see how they could allow the grandparents visitation rights.

This might create some real problems. Senator Crippen asked if Senator Hager's bill addressed that problem. Representative McBride said his bill is the same as the existing statutes.

ACTION ON HOUSE BILL 265: Senator Mazurek moved HB265 BE CONCURRED IN. This motion carried unanimously. Senator Blaylock will carry the bill on the floor.

ACTION ON HOUSE BILL 577: Senator Mazurek moved HB577 BE CONCURRED IN. Senator Crippen asked how this coincides with SB145. Senator Mazurek said SB145 repealed the statute altogether. Senator Crippen felt they should hold this bill and check into it. Senator Mazurek withdrew his motion.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 10:31 a.m.

BRUCE D. CRIPPEN
Vice-Chairman, Judiciary Committee

those instances in which an attorney had to be hired to force the insurer to reverse its position. He felt that if it is necessary for a claimant to hire an attorney to secure a reversal, he should not have to bear the cost of the attorney fees.

There being no further discussion, the hearing was closed.

ACTION ON HOUSE BILL 589: Senator Daniels arrived and was informed that Marc Racicot had been present for questions concerning this bill. Senator Daniels was opposed to this bill, as he felt that when the Constitution guarantees a jury trial, the defendant should not have to bear the costs. Chairman Turnage concurred with this assessment. Senator Daniels moved HB589 BE NOT CONCURRED IN. This motion carried unanimously. It was the consensus of the Committee that the Constitution grants a jury trial to an accused, NOT just upon the condition that he can pay for it.

ACTION ON HOUSE BILL 376: The Committee had previously passed a Senate Bill which deals with the grandparents visitation rights; however, it is not as complex as HB376. HB376 gives more guidance to the courts, where as the Senate Bill leaves more discretion. Senator Crippen objected to the language on page 3, lines 7 through 11. Senator Crippen moved to TABLE HB 376. This motion carried unanimously.

ACTION ON HOUSE BILL 577: The Committee discussed SB145 and agreed that it would be wise to legislate that bar examination fees are commensurate with costs. Senator Halligan moved HB577 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 512: The Committee felt that the bill needed to be amended in order for it to be workable. It was suggested that the new language in section 1 should be deleted and a new subsection (2) should be added which would provide that attorney fees are to be paid in the event the insurer denies liability for medical or hospital services and subsequently reverses its decision and honors the claim only because of action by the claimant's attorney. It was determined that the problems lie in small claims. The Committee debated limiting the bill to apply only to medical services. Senator Mazurek felt this area is already covered in the law. It was agreed that as a practical matter attorney fees are paid on all claims where an attorney is retained. Senator Shaw moved to TABLE HB512. This motion carried unanimously,

FURTHER CONSIDERATION OF HOUSE BILL 562: The Committee agreed the bill needed to be amended. Senator Mazurek suggested inquiring of Marc Racicot what the rationale was for eliminating the consent language. The Committee was concerned with marriages between stepchildren and parents and did not want to include adults under the provisions of the bill. Action was deferred for further consideration.

Jean A. Turnage
Chairman

Senator Mazurek said he wanted the Committee to discuss the "grandmother" provision. His understanding was that the reporters are asking for something that elevates them above the normal reporter.

A motion was made by Senator Crippen that the bill be amended on Page 5, lines 3 through 11, by striking subsection (5) in its entirely. Upon roll call vote the motion carried with Senator Turnage voting no.

A motion was then made by Senator Crippen that House Bill 774 As Amended Be Concurred In. Upon a 7 to 3 roll call vote, the motion carried.

A motion was then made by Senator Crippen that House Bill 331 be Taken from the Table. The motion carried unanimously.

A motion was then made by Senator Crippen that House Bill 376 be TAKEN FROM THE TABLE. The motion carried unanimously.

FURTHER CONSIDERATION OF HOUSE BILL 825: Ward Shanahan, representing Northern Tier Pipeline, said that there should not be a substantive change in the law of eminent domain. Therefore, if the bill can be amended on Page 4 by striking line 13 and the attached amendment for page 5, line 2, of the bill can be inserted, Northern Tier Pipeline Company can fully support this legislation, because it will then give the landowners great protection and provide for a more orderly procedure before the court. He submitted written testimony and amendments (Exhibit 5)

Patrick L. Smith, representing Northern Plains Resource Council, said that in the existing law there is no cut-off date for pre-trial legal activity. He sees the cut off period as a weakening of the existing law.

A motion was made by Senator Berg that House Bill 825 be amended on page 4, line 4 by inserting the language recommended by Ward Shanahan and by striking page 4, line 13. The motion carried unanimously.

It was decided that Mr. Shanahan and Mr. Smith should caucus together and come up with further amendments acceptable to both of them. Tomorrow the Committee will vote on the bill.

DISPOSITION OF HOUSE BILL 808: A motion was made by Senator Berg to Table House Bill 808. The motion carried unanimously.

ADJOURNMENT: Meeting was adjourned at 11:50 a.m.

SENATOR JEAN TURNAGE, Chairman

ACTION ON HOUSE BILL 376: Senator Turnage moved that the proposed amendments to HB376 BE ADOPTED. This motion carried with Senator Mazurek voting in opposition. Senator Turnage then moved that HB376 BE CONCURRED IN AS AMENDED. This motion carried with Senator Mazurek voting in opposition.

ACTION ON HOUSE BILL 370: Senator Turnage moved to take HB370 off the table. This motion carried unanimously. Senator Turnage then moved to amend HB370 by deleting subsection (4) on pages 2 and 3 and that this amendment BE ADOPTED. This motion carried unanimously. Senator Turnage then moved that HB370 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

There being no further business to come before the Committee, the meeting was adjourned at 11:50 a.m.

Jean A. Turnage

JEAN A. TURNAGE, Chairman

STANDING COMMITTEE REPORT

March 19, 19 83

MR. President

We, your committee on Senate Judiciary

having had under consideration House Bill No. 376
McBride (Hager)

Respectfully report as follows: That House Bill No. 376
be amended as follows:

1. Title, lines 4 and 5.
Strike: "GENERALLY REVISING THE LAW ON GRANDPARENT VISITATION RIGHTS"
Insert: "TO ALLOW ALL GRANDPARENTS THE OPPORTUNITY TO SEEK VISITATION RIGHTS WITH THEIR GRANDCHILDREN"

2. Page 1, line 13.
Strike: "A"
Insert: "The district court may grant to a"

3. Page 1, lines 14 and 15.
Following: "grandparent"
Strike: the remainder of line 14 through "grandchild" on line 15.
Insert: "of a child reasonable visitation rights"

4. Page 1, line 18.
Strike: ":"
Insert: "the visitation would be in the best interest of the child."

DO PASS

Continued on page 2

Chairman.

STATE PUB. CO.
Helena, Mont.

5. Page 1, lines 20 through line 2 on page 3.
Strike: line 20 on page 1 through "proceeding." on line 2, on page 3.
Renumber: subsequent section

And, as so amended,
BE CONCURRED IN

Chairman.

STATE PUB. CO.
Helena, Mont.